

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



July 29, 2005

Regulation Package #0605-09

CDSS MANUAL LETTER NO. AD-05-01

TO: HOLDERS OF THE ADOPTION USERS MANUAL

Handbook Package #0605-09**Effective 7/29/05****Sections 35011 and 35215**

This manual letter has been posted on the Office of Regulations Development website at http://www.dss.cahwnet.gov/ord/AdoptionMa_611.htm.

These handbook sections are being amended to conform to changes made in state and federal laws. The federal requirements at 42 United States Code Section 671 (a) (23) are reflected in California law at Family Code Section 8708 and Welfare and Institutions Code Section 10950. These laws prohibit delaying or denying the adoptive placement of a child solely because the prospective adoptive parents live outside the adoption agency's jurisdiction. The laws further allow that complainants may seek redress through a state administrative hearing. Federal fiscal penalties also will result from individual violations.

Since this change was nonsubstantive in nature, a public hearing was not held.

FILING INSTRUCTIONS

Revisions to all manuals are shown in graphic screen. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Adoption User's Manual regulation changes was AD-01-01.

Page(s)42 and 43
372 and 373**Replace(s)**Pages 42 and 43
Pages 372 and 373

Attachments

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SUBCHAPTER 2 GENERAL REQUIREMENTS**Article 2 Recruitment-Agency Adoptions****35009 DISSEMINATION OF INFORMATION REGARDING AAP ELIGIBLE 35009**
CHILDREN, AAP, AND REIMBURSEMENT OF NONRECURRING
ADOPTION EXPENSES

- (a) The agency shall inform the public regarding:
- (1) The need for adoptive parents for AAP-eligible children.
 - (2) AAP.
 - (3) Reimbursement for nonrecurring adoption expenses.

NOTE: Authority cited: Sections 10553, 10554, and 16118(a), Welfare and Institutions Code and Section 1530, Health and Safety Code. Reference: Sections 8708, 8709, 8710, and 8711 Family Code; Sections 16115.5, 16119 and 16120, Welfare and Institutions Code; and 45 CFR 1356.40 and 45 CFR 1356.41(e)(1).

35011 RECRUITMENT OF ADOPTIVE APPLICANTS 35011

- (a) The agency shall recruit applicants who will meet the needs of children whom the agency is placing for adoption.
- (1) In recruiting applicants, the agency shall follow the requirements of Family Code Sections 8708, 8709, 8710, and 8711.

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- (A) Family Code Section 8708 reads as follows:

"Neither the department nor a licensed adoption agency to which a child has been freed for adoption by either relinquishment or termination of parental rights may do either of the following:

"(a) Deny to any person the opportunity to become an adoptive parent, solely on the basis of the race, color, or national origin of the adoptive parent or the child involved.

HANDBOOK CONTINUES

35011 (Cont.)	ADOPTIONS PROGRAM REGULATIONS GENERAL REQUIREMENTS	Regulations
35011	RECRUITMENT OF ADOPTIVE APPLICANTS (Continued)	35011

HANDBOOK CONTINUES

"(b) Delay or deny the placement of a child for adoption, or otherwise discriminate in making an adoptive placement decision, solely on the basis of the race, color, or national origin of the adoptive parent or the child involved."

"(c) Delay or deny the placement of a child for adoption solely because the prospective, approved adoptive family resides outside the jurisdiction of the department or the licensed adoption agency."

(B) Family Code Section 8709 reads as follows:

"The department or licensed adoption agency to which a child has been freed for adoption by either relinquishment or termination of parental rights may consider the cultural, ethnic, or racial background of the child and the capacity of the prospective adoptive parent to meet the needs of a child of this background as one of a number of factors used to determine the best interest of a child. The child's religious background may also be considered in determining an appropriate placement.

"As used in this section, "placement decision" means the decision to place, or to delay or deny the placement of a child, in an adoptive home, and includes the decision to seek termination of parental rights or otherwise make a child legally available for adoptive placement."

(C) Family Code Section 8710 reads as follows:

"Where a child is being considered for adoption, the department or licensed adoption agency shall first consider adoptive placement in the home of a relative. However, if a relative is not available, if placement with an available relative is not in the child's best interest, or if placement would permanently separate the child from other siblings who are being considered for adoption or who are in foster care and an alternative placement would not require the permanent separation, the foster parent or parents of the child shall be considered with respect to the child along with all other prospective adoptive parents where all of the following conditions are present:

"(a) The child has been in foster care with the foster parent or parents for a period of more than four months."

HANDBOOK CONTINUES

SUBCHAPTER 5 PROCEDURES FOR AGENCY ADOPTIONS**Article 14 Grievance Review****35215 WRITTEN REQUEST FOR GRIEVANCE REVIEW****35215**

- (a) Upon written request from an applicant or a prospective adoptive parent, the agency shall provide for a grievance review hearing on any action taken by the agency before a petition for adoption is filed.
- (1) The agency shall advise applicants or prospective adoptive parents that the request for a grievance review hearing shall:
- (A) Be signed by the applicant or prospective adoptive parent or his or her authorized representative.
 - (B) State specifically the facts surrounding the action complained of.
 - (C) Be submitted to the agency within thirty days of the agency action which is the subject of the complaint, except as specified in (D) below.
 - (D) Be submitted to the CDSS - Adoptions Branch if the grievance concerns an action taken by a licensed private adoption agency based on the FBI criminal record.

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1. The agency will inform the applicant that in some cases two grievance reviews may be necessary.

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- (2) No request for a grievance review hearing shall be granted if the request for a grievance review hearing is based solely on any of the following:
- (A) Any action of the agency in compliance with a court order.
 - (B) A question regarding the validity of a statute or a regulation.
 - (C) Any issue for which a state hearing is available under Welfare and Institutions Code Section 10950.

35215	WRITTEN REQUEST FOR GRIEVANCE REVIEW (Continued)	35215
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- (D) Welfare and Institutions Code Section 10950, in pertinent part, reads:

"Welfare and Institutions Code Section 10950: If any applicant for or recipient of public social services is dissatisfied with any action of the county department relating to his or her application for or receipt of public social services, if his or her application is not acted upon with reasonable promptness, or if any person who desires to apply for public social services is refused the opportunity to submit a signed application therefor, and is dissatisfied with such refusal, he or she shall, in person or through an authorized representative, without the necessity of filing a claim with the board of supervisors, upon filing a request with the State Department of Social Services or the State Department of Health Services, whichever department administers the public social service, be accorded an opportunity for a state hearing...."

"...As used in this chapter, "recipient" means an applicant for or recipient of public social services except aid exclusively financed by county funds or aid under Article 1 (commencing with Section 12000) to Article 6 (commencing with Section 12250), inclusive, of Chapter 3 of Part 3, and under Article 8 (commencing with Section 12350) of Chapter 3 of Part 3, or those activities conducted under Chapter 6 (commencing with Section 189350) of Part 6, and shall include any individual who is an approved adoptive parent, as described in subdivision (C) of Section 8708 of the Family Code, and who alleges that he or she has been denied or has experienced delay in the placement of a child for adoption solely because he or she lives outside the jurisdiction of the department."

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NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Section 8621, Family Code. Reference: Section 8712, Family Code.

35217	SCHEDULING AND NOTICE OF GRIEVANCE REVIEW HEARING	35217
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- (a) The agency shall schedule the grievance review hearing to be held within 10 working days from the date the written request for the grievance review hearing is received by the agency.
- (1) The agency shall give notice to all parties to the grievance review hearing of the time, date, and place scheduled for the grievance review hearing.
- (A) The agency shall send the notice not less than five working days prior to the scheduled grievance review hearing.

NOTE: Authority cited: Sections 10553 and 10554, Welfare and Institutions Code; Section 1530, Health and Safety Code; and Section 8621, Family Code. Reference: Sections 10553(e) and 10950, Welfare and Institutions Code.